

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2503

Introduced by Assembly Member Hagman

February 21, 2014

An act to amend ~~Section~~ Sections 7502.2, 75.4.4, 7505.3, 7507.3, 7508.1, and 7508.5 of the Business and Professions Code, and to amend Sections 28, 4000, ~~and~~ 9561, and 22651.1 of, and to add Section 10856 to, the Vehicle Code, relating to reposseors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as amended, Hagman. Repossessors.

(1) *Under existing law, a financial institution that knowingly engages a nonexempt unlicensed person to repossess collateral on its behalf is guilty of a misdemeanor.*

This bill would expand the above crime to apply to a dealer, as defined, that sells collateral that may be secured by a security agreement and to a buy-here-pay-here dealer, as defined. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) *Existing law requires every office licensed as a repossession agency to be under the active charge of a qualified certificate holder. Existing law requires an applicant for a qualification certificate to meet specified criteria, including a requirement to pass an examination. If an applicant fails an examination, existing law requires the applicant to pay a reexamination fee to be eligible for a subsequent examination.*

This bill would require the applicant to also wait 4 months to be eligible for a subsequent examination.

(3) *Existing law allows a repossession business to continue on a license for 120 days when the qualified certificate holder actively in*

charge of the office ceases to be in charge because of the death of the licenseholder. Existing law requires a written notice to be made to the Bureau of Security and Investigative Services.

This bill would increase the period to 180 days and would require the written notice to identify the person in charge of running the day-to-day operation of the business.

(1)

(4) Existing law authorizes the Director of Consumer Affairs to assess administrative fines for various prohibited acts, including using any identification to indicate registration as a reposessor, other than a registration card issued by the Bureau of Security and Investigative Services, except an employer identification card issued by the repossession agency which has bureau approval. Existing law allows an employee of a repossession agency to wear a badge, cap insignia, or jacket patch meeting specified requirements.

This bill would except a badge, cap insignia, or jacket patch from the prohibition on using any identification to indicate registration as a reposessor.

(2)

(5) Existing law requires the person taking possession of a vehicle whenever possession is taken by or on behalf of any legal owner under the terms of a security agreement or lease agreement to notify local law enforcement within one hour of the repossession, as specified. Violation of these provisions is a crime.

This bill would require the reposessor to attempt notification within one hour, and to accomplish notification within 2 hours of the repossession, and would specify information that would be required to be provided in the notification.

By expanding the provisions of existing law, the violation of which is a crime, this bill would impose a state-mandated local program.

(3)

(6) Existing law provides that a vehicle repossessed pursuant to the terms of a security agreement is exempt from registration solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the reposessor, and from the storage facilities to the legal owner or a licensed motor vehicle auction, provided that the reposessor transports with the vehicle the appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request.

This bill would additionally provide that a vehicle repossessed pursuant to the terms of a security agreement is exempt from registration solely for the purpose of obtaining release of the vehicle from a law enforcement entity, impounding authority, tow yard, storage facility, or any other person or company that has possession of the vehicle, provided that the reposessor transports with the vehicle the appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request.

(4)

(7) Existing law provides that if the legal owner, or his or her agent, repossesses a vehicle on which registration renewal fees are due, the Department of Motor Vehicles is to waive any renewal penalties that are due for late payment if the fees are paid within 60 days of taking possession.

This bill would apply those provisions to a repossession by a reposessor.

(8) *Existing law establishes offenses for, among other things, willfully tampering or injuring a vehicle or its contents, as specified.*

This bill would prohibit a person from interfering with the transport of a vehicle to a storage facility, auction, or dealer by a reposessor once repossession is complete, as provided. Violation of these provisions would be an infraction pursuant to other provisions of law.

By creating a new crime, this bill would impose a state-mandated local program.

(9) *Existing law requires persons operating or in charge of a storage facility where vehicles that have been removed by a peace officer are stored to accept a valid bank credit card or cash for payment of towing and storage by the registered owner of the vehicle, and makes the person liable to the owner of the vehicle for 4 times the amount of the towing and storage charges if the person refuses to accept a valid bank credit card.*

This bill would additionally impose this liability on a person operating or in charge of a storage facility who accepts the card but requires a copy of the card before releasing the vehicle.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 7502.2 of the Business and Professions*
2 *Code is amended to read:*
3 7502.2. (a) ~~Any~~A financial institution, a dealer as defined by
4 Section 285 of the Vehicle Code that sells collateral that may be
5 secured by a security agreement as defined in paragraph (73) of
6 subdivision (a) of Section 9102 of the Commercial Code, or a
7 buy-here-pay-here deal as defined by Section 241 of the Vehicle
8 Code that knowingly engages a nonexempt unlicensed person to
9 repossess collateral on its behalf is guilty of a misdemeanor, and
10 is punishable by a fine of five thousand dollars (\$5,000).
11 (b) Within existing resources, the Commissioner of Financial
12 ~~Institutions and the Commissioner of Corporations of Business~~
13 Oversight may each designate employees to investigate and report
14 on violations of this section by any of the licensees of ~~their~~
15 ~~respective departments~~ the department. Those employees are
16 authorized to actively cooperate with the bureau in the investigation
17 of those activities.
18 (c) A proceeding to impose the fine specified in subdivision (a)
19 may be brought in any court of competent jurisdiction in the name
20 of the people of the State of California by the Attorney General
21 or by any district attorney or city attorney, or with the consent of
22 the district attorney, by the city prosecutor in any city or city and
23 county having a full-time city prosecutor, for the jurisdiction in
24 which the violation occurred. If the action is brought by a district
25 attorney, the penalty collected shall be paid to the treasurer of the
26 county in which the judgment is entered. If the action is brought
27 by a city attorney or city prosecutor, one-half of the penalty
28 collected shall be paid to the treasurer of the city in which the
29 judgment was entered and one-half to the treasurer of the county
30 in which the judgment was entered. If the action is brought by the
31 Attorney General, all of the penalty collected shall be deposited
32 in the Private Security Services Fund.
33 SEC. 2. Section 7504.4 of the Business and Professions Code
34 is amended to read:

7504.4. If an applicant fails to pass an initial examination *or subsequent examination*, he or she shall not be eligible for ~~any a~~ subsequent examination *for four months and* except upon payment of the reexamination fee for each subsequent examination, accompanied by a completed application for reexamination filed within the time limits and conditions relating to applications for initial examinations provided in Section 7504.3.

SEC. 3. Section 7505.3 of the Business and Professions Code is amended to read:

7505.3. (a) Whenever a qualified certificate holder actively in charge of an office ceases to be in charge, the licensee shall file with the bureau notice, in writing, within 30 days from ~~such~~ *the* cessation.

If the notice is filed, the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed one year, as specified by the director, if written notice is not given that a qualified person is then actively in charge of the office, the agency license shall be automatically suspended.

If the licensee shall fail to give written notice at the end of the 30-day period, the agency license shall be automatically suspended.

A license suspended under this section may be reinstated upon payment of the reinstatement fee and submission of a reinstatement application.

A person who performs any act for which a repossession agency license is required during the period of suspension is subject to the penal provisions of Article 3 (commencing with Section 7502), in addition to the provisions of Article 9 (commencing with Section 7508) and Article 10 (commencing with Section 7510).

(b) In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for ~~120~~ 180 days following the death of the licensee, provided that written notice is made to the bureau within 30 days following the death of the licensee. *The notice shall identify the person in charge of running the day-to-day operations of the business.* At the end of the ~~120-day~~ 180-day period, the license shall be automatically canceled. If no request is received within the 30-day period, the license shall be automatically canceled at the end of that period.

(c) In the case of the death or disassociation of a partner of an entity licensed as a partnership, the licensee shall notify the bureau, in writing, within 30 days from the death or disassociation of the individual. If notice is given, the license shall remain in force for 90 days following the death or disassociation. At the end of that period, the license shall be automatically canceled. If the licensee fails to notify the bureau within the 30-day period, the license shall be automatically canceled at the end of that period.

(d) A license extended under this section is subject to all other provisions of this chapter.

SEC. 4. Section 7507.3 of the Business and Professions Code is amended to read:

7507.3. A repossession agency shall be required to keep and maintain adequate records of all transactions, including, but not limited to, assignment forms; vehicle report of repossession required by Section 28 of the Vehicle Code; vehicle condition reports, including odometer readings, if available; personal effects inventory; *and* notice of seizure; ~~and records of all transactions pertaining to the sale of collateral that has been repossessed, including, but not limited to, bids solicited and received, cash received, deposits made to the trust account, remittances to the seller, and allocation of any moneys not so remitted to appropriate ledger accounts.~~ Records, including bank statements of the trust account, shall be retained for a period of not less than four years and shall be available for examination by the bureau upon demand. In addition, collateral and personal effects storage areas shall be made accessible for inspection by the bureau upon demand. An assignment form may be an original, a photocopy, a facsimile copy, or a copy stored in an electronic format.

~~SECTION 1.~~

SEC. 5. Section 7508.1 of the Business and Professions Code is amended to read:

7508.1. The director may assess administrative fines for the following prohibited acts:

(a) Knowingly making any false report to his or her employer or client for whom information was being obtained. The fine shall be one hundred dollars (\$100) for the first violation, and five hundred dollars (\$500) for each violation thereafter.

(b) Using any identification to indicate registration as a reposessor, other than the bureau-issued registration card, except

1 an employer identification card issued by the repossession agency
2 which has met bureau approval, or a badge, cap insignia, or jacket
3 patch as provided in Section 7508.8. A bureau-issued registration
4 card shall be carried by those individuals specified by Section
5 7506.3, and shall be shown on demand to any bureau employee
6 or law enforcement officer. The fine shall be twenty-five dollars
7 (\$25) for each violation.

8 (c) Using an alias in connection with the official activities of
9 the licensee's business. A notice of warning shall be issued for the
10 first violation. Thereafter the fine shall be twenty-five dollars (\$25)
11 for each violation.

12 (d) Appearing as an assignee party in any court proceeding
13 involving claim and delivery, replevin, or other possessory court
14 action, action to foreclose a chattel mortgage, mechanic's lien,
15 materialman's lien, or any other lien. This section shall not prohibit
16 a licensee from appearing as a defendant in any of the preceding
17 actions. The fine shall be one hundred dollars (\$100) for each
18 violation.

19 *SEC. 6. Section 7508.5 of the Business and Professions Code*
20 *is amended to read:*

21 7508.5. The director may assess administrative fines against
22 a repossession agency registrant for the following acts, in addition
23 to fines imposed pursuant to any other section in this article. The
24 fine shall be twenty-five dollars (\$25) for each of the following
25 violations:

26 (a) Knowingly submit a false report ~~to his or her employer.~~

27 (b) Submitting a report to a client without authorization by his
28 or her employer.

29 (c) Failing to carry a bureau-issued identification card and failing
30 to show that card upon demand to a bureau employee or a law
31 enforcement officer.

32 (d) Failing to register.

33 (e) Failing to return his or her registration card to the employer
34 upon termination.

35 (f) Failing to report a violent act involving the registrant to the
36 licensee or the licensee's qualified certificate holder within 24
37 hours.

38 ~~SEC. 2.~~

39 *SEC. 7. Section 28 of the Vehicle Code is amended to read:*

28. (a) Whenever possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the person taking possession shall attempt to notify, within one hour, and shall notify, within two hours, after taking possession of the vehicle, by the most expeditious means available, the city police department where the taking of possession occurred, if within an incorporated city, or the sheriff's department of the county where the taking of possession occurred, if outside an incorporated city, or the police department of a campus of the University of California or the California State University, if the taking of possession occurred on that campus, and shall within one business day forward a written notice to the city police or sheriff's department.

(b) If possession is taken of more than one vehicle, the possession of each vehicle shall be considered and reported as a separate event.

(c) Any person failing to notify the city police department, sheriff's department, or campus police department as required by this section is guilty of an infraction, and shall be fined a minimum of three hundred dollars (\$300), and up to five hundred dollars (\$500). The district attorney, city attorney, or city prosecutor shall promptly notify the Bureau of Security and Investigative Services of any conviction resulting from a violation of this section.

(d) For the notification required by this section, the person shall report all of the following:

- (1) The location of the repossession.
- (2) The registered owner as provided on the assignment.
- (3) The individual, company, or legal owner requesting the repossession.
- (4) The vehicle year, make, and model.
- (5) The last six digits of the vehicle identification number.
- (6) The repossession agency name.
- (7) The repossession agency telephone number.

~~SEC. 3.~~

SEC. 8. Section 4000 of the Vehicle Code is amended to read:

4000. (a) (1) A person shall not drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging dolly, unless it is registered and the appropriate fees have been paid under this code or registered under the permanent trailer

1 identification program, except that an off-highway motor vehicle
2 which displays an identification plate or device issued by the
3 department pursuant to Section 38010 may be driven, moved, or
4 left standing in an offstreet public parking facility without being
5 registered or paying registration fees.

6 (2) For purposes of this subdivision, “offstreet public parking
7 facility” means either of the following:

8 (A) Any publicly owned parking facility.

9 (B) Any privately owned parking facility for which no fee for
10 the privilege to park is charged and which is held open for the
11 common public use of retail customers.

12 (3) This subdivision does not apply to any motor vehicle stored
13 in a privately owned offstreet parking facility by, or with the
14 express permission of, the owner of the privately owned offstreet
15 parking facility.

16 (4) Beginning July 1, 2011, the enforcement of paragraph (1)
17 shall commence on the first day of the second month following
18 the month of expiration of the vehicle’s registration. This paragraph
19 shall become inoperative on January 1, 2012.

20 (b) No person shall drive, move, or leave standing upon a
21 highway any motor vehicle, as defined in Chapter 2 (commencing
22 with Section 39010) of Part 1 of Division 26 of the Health and
23 Safety Code, which has been registered in violation of Part 5
24 (commencing with Section 43000) of that Division 26.

25 (c) Subdivisions (a) and (b) do not apply to off-highway motor
26 vehicles operated pursuant to Sections 38025 and 38026.5.

27 (d) This section does not apply, following payment of fees due
28 for registration, during the time that registration and transfer is
29 being withheld by the department pending the investigation of any
30 use tax due under the Revenue and Taxation Code.

31 (e) Subdivision (a) does not apply to a vehicle that is towed by
32 a tow truck on the order of a sheriff, marshal, or other official
33 acting pursuant to a court order or on the order of a peace officer
34 acting pursuant to this code.

35 (f) Subdivision (a) applies to a vehicle that is towed from a
36 highway or offstreet parking facility under the direction of a
37 highway service organization when that organization is providing
38 emergency roadside assistance to that vehicle. However, the
39 operator of a tow truck providing that assistance to that vehicle is
40 not responsible for the violation of subdivision (a) with respect to

1 that vehicle. The owner of an unregistered vehicle that is disabled
2 and located on private property, shall obtain a permit from the
3 department pursuant to Section 4003 prior to having the vehicle
4 towed on the highway.

5 (g) A vehicle repossessed pursuant to the terms of a security
6 agreement is exempt from registration solely for the purpose of
7 obtaining release of the vehicle from a law enforcement entity,
8 impounding authority, tow yard, storage facility, or any other
9 person or company that has possession of the vehicle, provided
10 that the reposessor transports with the vehicle the appropriate
11 documents authorizing the repossession and makes them available
12 to a law enforcement officer on request.

13 (h) For purposes of this section, possession of a California
14 driver's license by the registered owner of a vehicle shall give rise
15 to a rebuttable presumption that the owner is a resident of
16 California.

17 ~~SEC. 4.~~

18 *SEC. 9.* Section 9561 of the Vehicle Code is amended to read:

19 9561. (a) When a legal owner, his or her agent, or a reposessor
20 who is licensed pursuant to Chapter 11 (commencing with Section
21 7500) of Division 3 of the Business and Professions Code
22 repossesses a vehicle on which renewal fees are due, the department
23 shall waive any renewal penalties that are due for late payment if
24 the fees are paid within 60 days of taking possession.

25 (b) Notwithstanding any other provisions of this code, when a
26 repossessed vehicle is sold through a dealer conducting a wholesale
27 motor vehicle auction as provided in subdivision (b) of Section
28 4456 and Article 5 (commencing with Section 6100) of Chapter
29 2 of Division 3, any penalties that may be due are waived, if all
30 renewal fees that are due are paid not later than 60 days after the
31 date of sale at the auction.

32 *SEC. 10.* Section 10856 is added to the Vehicle Code, to read:

33 10856. A person shall not interfere with the transport of a
34 vehicle to a storage facility, auction, or dealer by a reposessor
35 who is licensed pursuant to Chapter 11 (commencing with Section
36 7500) of Division 3 of the Business and Professions Code once
37 repossession is complete as provided in Section 7507.12 of the
38 Business and Professions Code.

39 *SEC. 11.* Section 22651.1 of the Vehicle Code is amended to
40 read:

1 22651.1. Persons operating or in charge of any storage facility
2 where vehicles are stored pursuant to Section 22651 shall accept
3 a valid bank credit card or cash for payment of towing and storage
4 by the registered owner, legal owner, or the owner's agent claiming
5 the vehicle. A credit card shall be in the name of the person
6 presenting the card. "Credit card" means "credit card" as defined
7 in subdivision (a) of Section 1747.02 of the Civil Code, except,
8 for the purposes of this section, credit card does not include a credit
9 card issued by a retail seller. A person operating or in charge of
10 any storage facility who refuses to accept a valid bank credit card,
11 *or who accepts the card but requires a copy of the card before*
12 *releasing the vehicle*, shall be liable to the owner of the vehicle or
13 to the person who tendered the fees for four times the amount of
14 the towing and storage charges, but not to exceed five hundred
15 dollars (\$500). In addition, persons operating or in charge of the
16 storage facility shall have sufficient funds on the premises to
17 accommodate and make change in a reasonable monetary
18 transaction.

19 Credit charges for towing and storage services shall comply with
20 Section 1748.1 of the Civil Code. Law enforcement agencies may
21 include the costs of providing for payment by credit when agreeing
22 with a towing or storage provider on rates.

23 ~~SEC. 5.~~

24 *SEC. 12.* No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.